

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

ABDUL-HASIB AL-MUSAWWIR, #1174610,

Petitioner,

v.

Action No. 2:19cv6

HAROLD W. CLARKE,  
Director, Virginia Dept. of Corrections,

Respondent.

**FINAL ORDER**

Petitioner Abdul-Hasib Al-Musawwir (“Al-Musawwir”), a Virginia inmate, submitted a *pro se* petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254. ECF No. 1. Al-Musawwir alleges violations of federal rights pertaining to his convictions on September 21, 1999, in the Circuit Court for the City of Hampton for aggravated malicious wounding, use of a firearm during the commission of a felony, and possession of a firearm by a convicted felon. *Id.* at 1. As a result of the convictions, Al-Musawwir was sentenced to serve life plus eight years in the Virginia penal system. *Id.*

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Local Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report and recommendation, filed February 4, 2019, recommends that the petition be dismissed without prejudice to Al-Musawwir refiling his federal petition after obtaining an order authorizing the filing of a successive petition from the Court of Appeals for the Fourth Circuit. ECF No. 4. Each

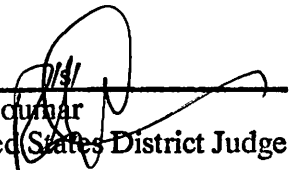
party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On March 14, 2019, the Court received Al-Musawwir's objections to the report and recommendation. ECF No. 8.

The Court, having reviewed the record and examined the objections filed by petitioner to the report and recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the report and recommendation. The Court, therefore, **ORDERS** that the petition for a writ of habeas corpus, ECF No. 1, is **DISMISSED WITHOUT PREJUDICE** to Al-Musawwir refiling his federal petition after obtaining an order authorizing the filing of a successive petition from the Court of Appeals for the Fourth Circuit.

Finding that the basis for dismissal of Al-Musawwir's § 2254 petition is not debatable, and alternatively finding that Al-Musawwir has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); *see* Rule Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Al-Musawwir is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. R. App. P. 22(b); Rule Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). If Al-Musawwir intends to seek a certificate of appealability from the Fourth Circuit, he must do so **within thirty days** from the date of this Order. Al-Musawwir may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk shall mail a copy of this final order to Al-Musawwir and counsel of record for respondent.

  
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Robert G. Doumar  
Senior United States District Judge

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Robert G. Doumar  
United States District Judge

Norfolk, Virginia  
April 11, 2019